

COMSCINST 4610.9D	COG CODE N2	DATE 4 NOV 1981
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DEPARTMENT OF THE NAVY
COMMANDER MILITARY SEALIFT COMMAND
WASHINGTON NAVY YARD BLDG 210
901 M STREET SE
WASHINGTON DC 20398-5540

COMSCINST 4610.9D
M-7
4 November 1981

COMSC INSTRUCTION 4610.9D

Subj: OCEAN TRANSPORTATION OF GOVERNMENT-OWNED OR SPONSORED CARGOES BETWEEN AND AMONG PORTS OF THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS

Encl: (1) Format for Declaration of Government Ownership or Sponsorship of Cargo

1. Purpose. To set forth COMSC policy concerning, and the procedure to be followed by MSC area and subarea commanders in arranging for, ocean transportation of Government-owned or sponsored cargoes between ports of the United States, its Territories and possessions; except that as the Virgin Islands and Canton Island are exempted from sabotage laws, shipments to those destinations are not covered by this instruction.
2. Cancellation. COMSC Instruction 4610.9C.
3. Background
 - a. The Merchant Marine Act of 1920, as amended, (46 USC 883) prohibits the transportation of merchandise, upon penalty of its forfeiture, by water between ports in the United States, including Districts, Territories and possessions thereof within the coastwise laws, in any vessel other than a United States-flag vessel meeting the specific qualifications established by the statute. If any United States-flag vessel fails to meet those requirements, its document will bear the following notation: "This vessel shall not engage in the coastwise trade."
 - b. The operators of ships which meet the qualifications established by the Merchant Marine Act of 1920 must, in addition, under Subtitle IV, Interstate Commerce, 49 USC 10101, et seq., also possess certificates of public convenience and necessity, or permits, from the Interstate Commerce Commission for participation in trade between ports of the 48 contiguous States and the District of Columbia; except that the following cargoes are exempted from the provisions of this subtitle:

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- (1) movement by Government-owned ships (including GAA);
- (2) movement of bulk commodities in an otherwise qualified ship carrying not more than three such commodities; and
- (3) movement of bulk POL in an otherwise qualified ship which is a Coast Guard-certified tanker.

Title 49, United States Code does not preclude vessels without permits or certificates from engaging in coastwise carriage of cargo loaded in a foreign port for discharge in several United States ports, or from loading cargo in several United States ports for carriage to foreign ports. Title 49 does not restrict any choice of ships between the States of Alaska and Hawaii and between those States and the 48 contiguous United States and the District of Columbia.

c. Privately-owned cargo moving in ships not authorized to engage in the trade in which the cargo is carried may be subjected to forfeiture to the United States. Therefore, it is necessary that, when conditions require the transportation of such property in ships normally barred from the trade in which such property is moving, a waiver of the application of 46 USC 883 to such cargo be obtained from the Bureau of Customs.

4. Policy. Whenever commercial shipping is used in the carriage of Government cargoes between ports of the United States, its territories and possessions, it is the policy of COMSC to employ:

a. For the carriage of bulk commodities and POL between ports in the 48 contiguous States and the District of Columbia, or for the carriage of any cargo from one port in the Territory of Guam to another port in that Territory, only United States-flag vessels whose documents do not bear the notation quoted in paragraph 3a above.

b. For the carriage of cargoes (other than bulk commodities and POL) between ports in the 48 contiguous States and the District of Columbia only United States-flag ships whose documents do not bear the notation quoted in paragraph 3a above and whose owners or operators do hold Interstate Commerce Commission certificates of public convenience and necessity, or permits, for the trade.

c. For the carriage of all cargoes--

(1) Loaded in ports of the State of Alaska, the State of Hawaii, or the Commonwealth of Puerto Rico, for discharge in ports of those States or the Commonwealth; or

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(2) Loaded in a port of the State of Alaska, the State of Hawaii, or the Commonwealth of Puerto Rico, and discharged in a port of the 48 contiguous States or the District of Columbia, or

(3) Loaded in a port of 48 contiguous States or the District of Columbia and discharged in a port of the State of Alaska, the State of Hawaii, or the Commonwealth of Puerto Rico; only United States-flag vessels whose documents do not bear the notation quoted in paragraph 3a above.

d. For the carriage of cargoes to or from ports in the territory of Guam, from or to ports of the 50 States or the District of Columbia, United States-flag vessels regardless of whether or not their documents bear the notation quoted in paragraph 3a above.

5. Action

a. Cognizant commanders shall make every effort to book cargo (other than bulk commodities and POL) between ports in the 48 contiguous States and the District of Columbia to Government-owned ships or to commercial ships meeting the qualifications set forth in paragraph 4b. If such cargo generates in excess of the capabilities of Government-owned and of qualified commercial ships, cognizant commanders shall notify COMSC by message.

b. Cognizant commanders shall make every effort to book cargoes for moments described in paragraphs 4a, c, and d to Government-owned ships or to qualified commercial ships. When such cargo generates in excess of the capabilities of qualified ships, the cognizant commanders may authorize shipment in other ships when military necessity requires.

c. In order to avoid forfeiture action against cargo when a ship not meeting the proper qualifications for a trade is used, the cognizant commander will identify the cargo as Government-owned or sponsored by preparing and executing a declaration following the format of enclosure (1), which declaration shall be delivered to the agent or master of the vessel with instructions to present the document to the local Collector of Customs upon clearing the ship. If any part of the cargo is private property, such as privately-owned vehicles or household goods, a waiver of the application of 46 USC 883 will be obtained from the Bureau of Customs and included as a part of the declaration.

/S/

W. C. HAMM, Jr.

Deputy

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**DECLARATION OF OWNERSHIP OR SPONSORSHIP
OF CARGO TRANSPORTED BY NONQUALIFIED VESSEL**

Date_____

This is to certify that United States Government-owned or sponsored cargo consisting of _____ laden in the _____ flag SS/MV _____ Official Number _____, _____ Master has been authorized for carriage between _____ (*Port(s) of Loading*) and _____ (*Port(s) of Discharge*) by the Military Sealift Command.

Commander, Area, Subarea, COMSCO

By direction